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UNITED STATES PATENT AND TRADEMARK OFFICE

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10/660,945	09/12/2003	Erik P. Staats	APPL-P2829COA	6999

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EXAMINER
PAULA, CESAR B

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 February 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-5 and 11-29</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5,11-18,22 and 26-29</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) <u>19-21, and 23-25</u> are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the RCE amendment filed on 2/20/2007.

This action is made Non-Final.

2.   In the amendment, claims 14-29 have been added. Claims 1-5, and 11-29 are pending in

the case. Claims 1, 11, 19, 22-23, and 26 are independent claims.

Priority

3.   This application is a continuation of co-pending United States Patent Application Serial

Number **09/429,233, filed October 28, 1999**.

Drawings

4.   The drawings filed on 9/12/2003 have been accepted by the Examiner.

Specification

5.   The objection to the disclosure has been withdrawn as necessitated by the

amendment.

Double Patenting

6.   The statutory rejections of claims 11-13 under 35 USC 101 have been withdrawn
as necessitated by the amendment.

7.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8.   Claims 1-5, and 11-13 remain rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 1, 9-10, (11 and 13), and 12 respectively of **U.S. Patent No. 6,691,096 B1, hereinafter 096** in view of Looney (Pat.# 6,232,539 B1, 5/15/2001, continuation filed on 6/17/1998).

Regarding claim 1, 096 teaches the limitations of these claims, except for *present the hierarchy to a device requesting data.* However, Looney discloses the display and organization of songs in a hard drive according to various categories. The categories further include subcategories, that in turn display various descriptive of the media data such as title, artist, date, etc. The categories and subcategories are displayed simultaneously on a gui (col.2, lines 30-67, col. 9, line 48-col.10, line 67, fig. 12-17)-- *present* or display *the hierarchy to a--* display-- *device requesting data.* It would have been obvious to one of ordinary skill in the art at the time

of the invention to combine 096, and Looney, because of all the reasons found in Looney,

including fully customizing music playback according to various parameters (col.1, lines 30-67),

which would grant the user a more fulfilling and enjoyable listening experience.

This is a double patenting rejection.

Election/Restrictions

9.   Newly submitted claims 19-21, and 23-25 are directed to an invention that is independent

or distinct from the invention originally claimed for the following reasons: Claims 19, and 23

recites *"providing an open access to said at least one data descriptor to allow for both read and

write privileges; and utilizing an access control mechanism to control simultaneous change

requests to modify said at least one data descriptor; wherein said at least one data descriptor is

arranged in a hierarchical format so that each node in the hierarchical format is accessed as a

unit independent of its children."* which is directed to subject matter classified in 710/1, 7, and

20.

Since applicant has received an action on the merits for the originally presented

invention, this invention has been constructively elected by original presentation for prosecution

on the merits. Accordingly, claim 16 is withdrawn from consideration as being directed to a

non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 101

10.   The rejections of claims 1-5, and 11-13 rejected under 35 U.S.C. 101, have been

withdrawn as necessitated by the amendment.

Claim Rejections - 35 USC § 112

11.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12.   Claims 17, 22, and 28 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

13.   Claims 17, 22, and 28 recite the limitation "the AV/C general specification" in lines 4, 8,

and 3 respectively. There is insufficient antecedent basis for this limitation in the claim. There is

no previous "AV/C general specification" in the claims to refer to.

Claim Rejections - 35 USC § 102

14.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for . patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15.   Claims 1-5, 11-18 remain, and 22, 26-29 are newly rejected under 35 U.S.C. 102(e) as

being anticipated by Looney et al, hereinafter Looney (Pat.# 6,232,539 B1, 5/15/2001,

continuation filed on 6/17/1998).

        Regarding independent claim 1, Looney discloses the display and organization of songs

in a hard drive according to various categories. The categories further include subcategories, that

in turn display various descriptive information of the media data such as title, artist, date, etc.

The categories and subcategories are displayed simultaneously on a gui (col.2, lines 30-67, col.

9, line 48-col.10, line 67, fig. 12-17)-- *compile a plurality of containers containing audio visual*

control descriptor data; register one or more fields within each said container, and arrange said

containers into a logical hierarchy; present or display *the hierarchy to a--* display-- *device*

requesting data.

        Regarding claim 2, which depends on claim 1, Looney discloses the songs are stored

within the subcategories as mpeg3 files, having category flags appended to them. The files,

which are listed in various order, are played back to a user (col.2, lines 30-67, fig. 12-17)--

associating addresses with each of said fields sequentially enumerated within each of said

containers.

        Regarding claim 3, which depends on claim 2, Looney discloses that the files are listed in

various orders, such as ascending, descending, etc (col.2, lines 30-67, col. 9, lines 1-67,

col.10,lines 30-67, fig. 12-17)-- *mapping said fields to a prescribed field list.*

Regarding claim 4, which depends on claim 3, Looney discloses the display of various

categories, such as title, artist, date, etc., which are listed individually from other categories

(col.2, lines 30-67, col.9, lines 48-col.10, line 67, fig. 12-17)-- *accessing any field within any*

container independently of any other container, and reading data from any field within any

container without affecting the access to any other container-- (col.2, lines 30-67, col. 9, line 48-

col.10, line 67, fig. 12-17).

Regarding claim 5, which depends on claim 4, Looney discloses the display of various

categories, such as title, artist, date, etc., which are listed individually from other categories

(col.2, lines 30-67, col.9, lines 48-col.10, line 67, fig. 12-17)-- *said plurality of containers*

comprise in combination an audio visual control general object list descriptor. (col.2, lines 30-

67, col. 9, line 48-col.10, line 67, fig. 12-17).

Regarding independent claim 11, Looney discloses the organization of songs in a hard

drive according to various categories. The categories further include subcategories. The

categories and subcategories are displayed simultaneously on a gui. The categories are displayed

in a list according to a certain order, and category as result of a search of the songs in the

containers. The user selects the first criteria, such as the artist to be searched-- *identify a top level*

data container containing audio visual control descriptor data. The search of the container is

also performed according to certain search criteria, such as the song ratings *initialize compilation*

attributes; sequentially read the container data. The song is played by the queuing of the song

and setting a timer to 0. The user can then indicate the length of playtime of a song selected to be played (col.2, lines 30-67, col.9, line 1-col.10, col. 14, lines 37-50, col.10,lines 30-67, fig. 12-17, 27). In other words, a category listing is replaced with a newly selected category list as indicated by a user-- *and copy said read data into a readable buffer.*

Regarding claim 12, which depends on claim 11, Looney discloses the queuing of a song to be played and setting a timer to 0. The user can then indicate the length of play time of a song selected to be played (col.2, lines 30-67, col.9, lines 33-47, col. 14, lines 37-50, col.10,lines 30-67, fig. 27)-- *establishing a read buffer in a memory space and setting the read buffer offset to zero; establishing a received address request as a starting address, establishing a received read length request as a length sought.*

Regarding claim 13, which depends on claim 12, Looney discloses searching, and displaying songs in the categories, and subcategories (col.2, lines 30-67, col.8, lines 58-col.9, line 47, fig. 12)-- *the sequentially reading container data activity includes recursively searching for responsive data, said search initialized with said initialized attributes.*

Regarding claim 14, which depends on claim 1, Looney discloses the display and organization of songs in a hard drive according to various categories. The categories further include subcategories, that in turn display various descriptions of the media data such as title, artist, date, etc in MPEG3 format(col.2, lines 7-67, col.8, lines 58-col.9, line 47, fig. 14)-- *at least one of said plurality of containers comprises a direct representation of a data field in an*

audio visual control descriptor.

Regarding claim 15, which depends on claim 14, Looney discloses alternate

description specifying different aspects of the music tempo, such as upbeat, fast, or energy, as

found in the categories, and subcategories (col.2, lines 30-67, col.8, lines 58-col.9, line 47, fig.

14)-- *wherein at least one of said plurality of containers comprises an alternate representation*

of a second audio visual control descriptor field.

Regarding claim 16, which depends on claim 15, Looney discloses the display and

organization of songs in a hard drive according to various categories. The categories further

include subcategories, that in turn display various descriptions of the media data such as title,

artist, date, etc in MPEG3 format (col.2, lines 7-67, col.8, lines 58-col.9, line 47, fig. 14)-- *at*

least one of said plurality of containers comprises information on how to produce a third audio

visual control descriptor field.

Regarding claim 17, which depends on claim 1, Looney discloses preventing any song

that exceeds a predetermined rating category, from being listed or searched (col.2, lines 61-67

fig. 14)-- *recompiles said plurality of containers containing audio visual control descriptor*

data into a format compliant with the AV/C General specification.

Regarding claim 18, which depends on claim 11, Looney discloses the categories are

displayed in a list according to a certain order, and category as result of a search of the songs in

the containers. (col.2, lines 30-67, col.9, line 1-col.10, col. 14, lines 37-50, col.10,lines 30-67, fig. 12-17, 27). In other words, a category listing is replaced with a newly selected category list as indicated by a user-- *said act of sequentially reading said container data includes recursively searching for responsive data, said recursive search initialized with said initialized compilation attributes.*

Regarding independent claim 22, Looney discloses the display and organization of songs in a hard drive according to various categories. The categories further include subcategories, that in turn display various descriptive of the media data such as title, artist, date, etc in MPEG3 format-- *wherein said plurality of containers, in combination, comprise an audio visual control general descriptor compliant with the AV/C general specification.* The categories and subcategories are displayed simultaneously on a gui (col.2, lines 30-67, col. 9, line 48-col.10, line 67, fig. 12-17)-- *compile a plurality of containers containing AV/C descriptor data; register one or more fields within each said container, and arrange said containers into a logical hierarchy; present* or display *the hierarchy to a--* display-- *device requesting data.*

Regarding independent claim 26, Looney discloses the display and organization of songs in a hard drive according to various categories. The categories further include subcategories, that in turn display various descriptive of the media data such as title, artist, date, etc in MPEG3 format-- *wherein at least one of said plurality of containers comprises a representation of a data field in an audio visual control descriptor.* The categories and subcategories are displayed simultaneously on a gui (col.2, lines 30-67, col. 9, line 48-col.10, line 67, fig. 12-17)-- *compile a*

plurality of containers containing AV/C descriptor data; register one or more fields within each

said container, and arrange said containers into a logical hierarchy; present or display *the*

hierarchy to a-- display-- *device requesting data.*

Regarding claim 27, which depends on claim 26, Looney discloses alternate description

specifying different aspects of the music tempo, such as upbeat, fast, or energy, as found in the

categories, and subcategories (col.2, lines 30-67, col.8, lines 58-col.9, line 47, fig. 14)-- *wherein*

at least one of said plurality of containers comprises an alternate representation of a second

audio visual control descriptor field.

Regarding claim 28, which depends on claim 26, Looney discloses preventing any song

that exceeds a predetermined rating category, from being listed or searched (col.2, lines 61-67

fig. 14)-- *at least one instruction which when executed recompiles said plurality of containers*

containing audio visual control descriptor data into a format compliant with the AV/C General

specification.

Regarding claim 29, which depends on claim 26, Looney discloses the organization of

songs in a hard drive according to various categories. The categories further include

subcategories. The categories and subcategories are displayed simultaneously on a gui. The

categories are displayed in a list according to a certain order, and category as result of a search of

the songs in the containers. The user selects the first criteria, such as the artist to be searched--

identify a top level data container containing AV/C descriptor data. The search of the container

is also performed according to certain search criteria, such as the song ratings *initialize*

compilation attributes; read the container data. The song is played by the queuing of the song

and setting a timer to 0. The user can then indicate the length of playtime of a song selected to be

played (col.2, lines 30-67, col.9, line 1-col.10, col. 14, lines 37-50, col.10,lines 30-67, fig. 12-

17, 27). In other words, a category listing is replaced with a newly selected category list as

indicated by a user-- *and copy said read container data into a readable storage area.*

Response to Arguments

16.   Applicant's arguments filed on 2/20/2007 have been fully considered but they are not

persuasive. The Applicant indicates that the various descriptive data from Looney, i.e, title,

artist, etc., cannot be fairly characterized as "AV/C" descriptor data (page 8). The Examiner

disagrees, because the data of Looney is utilized for controlling the display of visual audio

information contained in the audio files . The categories further include subcategories, that in

turn display various descriptive of the media data such as title, artist, date, etc.- *AV/C descriptor*

data. The categories and subcategories--*hierarchy* --are displayed simultaneously on a gui (col.2,

lines 30-67, col. 9, line 48-col.10, line 67, fig. 12-17).

Regarding claim 11, the Applicant submits that Looney does not teach the initialization

of compilation attributes (page 11). The Examiner disagrees, since Looney discloses the

organization of songs in a hard drive according to various categories. The categories further

include subcategories. The categories and subcategories are displayed simultaneously on a gui.

The categories are displayed in a list according to a certain order, and category as result of a

search of the songs in the containers. The user selects the first criteria, such as the artist to be

searched-- *identify a top level data container containing AV/C descriptor data*. The search of the

container is also performed according to certain search criteria, such as the song ratings *initialize*

compilation attributes; sequentially read the container data. The song is played by the queuing

of the song and setting a timer to 0. The user can then indicate the length of playtime of a song

selected to be played (col.2, lines 30-67, col.9, line 1-col.10, col. 14, lines 37-50, col.10,lines 30-

67, fig. 12-17, 27). In other words, a category listing is replaced with a newly selected category

list as indicated by a user-- *and copy said read data into a readable buffer*.

Conclusion

I.   Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Cesar B. Paula whose telephone number is (571) 272-4128. The

Examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:00 p.m.

(EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Stephen Hong, can be reached on (571) 272-4124. However, in such a case, please

allow at least one business day.

Information regarding the status of an application may be obtained from the Patent

Application Retrieval (PAIR) system. Status information for published applications may be

obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, go to http://portal.uspto.gov/external/portal/pair. Should you have any questions about

access to the Private PAIR system, please contact the Electronic Business Center (EBC) at 866

217-9197 (toll-free).

Any response to this Action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to:

- **(571)-273-8300** (for **all** Formal communications intended for entry)

CESAR PAULA

PRIMARY EXAMINER

5/14/2007